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UN ASPECTS OF CUBAN SITUATION

Basic Principles

1. Any overt US (or OAS) action on Cuba involving military elements will produce widespread fear of a nuclear war. The political reaction will be immediate and sharp (of the nature of Suez). It will be focused in the UN.

2. There is no justification which would stand up in international law for unilateral military action by the US against Cuba in the circumstances indicated, regardless of the realities of the problem.

Our legal case would have to be based on Art. 51 of the Charter -- self defense against "armed attack" -- and on the special characteristics of the

American system and the special status of that system in international law. (Art. 5 of the OAS charter ^{Ex} "requires" the political

organization

DEPARTMENT OF STATE A/CDC/ML

REVIEWED BY RBHawth DATE 2/10/88

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organization of American states to be on "the basis of the effective exercise of representative democracy." Art. 25 states that if the political independence of any American state should be affected by "any" "Fact ofx or situation that might endanger the peace of America, the American States, in furtherance of ... collective self-defense, shall apply the measures and procedures established in the special treaties ..." Art. 6 of the Rio Treaty says that the Organ of Consultation shall meet immediately (under these conditions) in order to agree on the measures which should be taken for the common defense and for the maintenance of the peace and security of the Continent.)

3. The validity of invoking the regional system lies in making the strongest case possible that Soviet intervention in Cuba has destroyed the "political independence" of Cuba. While

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§ true in fact this is also hard to sustain in law because the Cuban Government achieved power through its own means and there-
after invited the USSR in.



5. OAS action going beyond interruption of economic, diplomatic and other ties, that is anything involving compulsion, would except in self-defense, require SC approval under Art. 53 of the Charter before it would finally be "legal"; the USSR would of course veto this. Nevertheless OAS action would provide some legal and great public opinion protection.

6. We cannot guarantee 7 votes in the SC for a satisfactory resolution

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resolution. (This would require the votes of the UK, France, Chile, Ecuador, China and Ireland.) We would have an automatic 4 votes against us (USSR, Rumania, UAR, Ghana). The votes of others would depend on the factual situation and what we were able to offer as a political program.

7. The support of the UK is vital. And it is not automatic. The UK did not tell us what it was doing in Suez, with disastrous results. The same could happen to us here.

8. Recourse to the UN by someone -- Cuba or the USSR -- will be instantaneous. It will be in our interests to go to the UN first ourselves, simultaneously with other action.

9. Only a large scale political program offering a political way out of a military situation will be sufficient to avoid the UN (GA) passing resolutions directed strongly against us. Thus a political program is vital. A provision calling for an end to military

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military action is inevitable. We should have one in our initial proposal, worded ~~the~~ the way we want it.

10. UN action will proceed from the SC to the GA under the Uniting for Peace Resolution.

11. With the right political program in the SC we should not have to use the veto. Without one we very well might have to.

12. Both this month and next we have Communist chairmen of the SC (USSR and Romania). Thus we do not control the timing of initial meetings or the procedures.

13. The impact of what we do in Cuba ^{or} ~~the~~ the Berlin situation needs minute consideration.

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